

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OSCAR E ERICKSON, INC, No C 07-1859 VRW  
Plaintiff, ORDER

v

NORTHWESTERN NATIONAL INSURANCE  
COMPANY OF MILWAUKEE, WISCONSIN;  
PACIFIC EMPLOYERS INSURANCE  
COMPANY; ACE AMERICAN INSURANCE  
COMPANY; THE INSURANCE COMPANY OF  
THE STATE OF PENNSYLVANIA; AIG  
DOMESTIC CLAIMS, INC; THE UNITED  
STATES FIDELITY AND GUARANTY  
COMPANY; METLIFE INSURANCE  
COMPANY OF CONNECTICUT, fka THE  
TRAVELERS INSURANCE COMPANY;  
GRANITE STATE INSURANCE COMPANY;  
AND DOES 1-50,

Defendants.

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Plaintiff Oscar E Erickson (Erickson) brought this action  
against eight insurance companies, asserting that each carrier  
failed to indemnify Erickson in response to multiple suits alleging  
personal injuries from asbestos exposure. Erickson originally  
filed his complaint in California state court. Defendant

1 Northwestern National Insurance Company (NNIC) removed the case,  
2 thereby triggering the discovery stay of FRCP 26. Doc #1.  
3 Immediately thereafter, NNIC and defendant AIG Domestic Claims, Inc  
4 (AIG) filed motions to dismiss and motions for summary judgment as  
5 their initial responsive pleadings. Doc ##11, 13. These motions  
6 and others will be heard on July 5, 2007.

7 Erickson requests leave of court to file a motion to  
8 conduct early discovery pursuant to FRCP 26(d) and FRCP 56(f). Doc  
9 ##58, 62. Erickson states that such discovery is necessary to  
10 oppose the pending motions. Id. Erickson seeks a continuance of  
11 the motions scheduled for July 5 to allow time to conduct the  
12 requested discovery. Id. Defendants NNIC, AIG, Granite State  
13 Insurance Company, and Insurance Company of the State of  
14 Pennsylvania oppose Erickson's request. Doc ##60, 61. These  
15 defendants represent variously that: (1) they have already provided  
16 all relevant materials; (2) the requested materials are not  
17 available; (3) even if the requested materials were available, they  
18 would not defeat the pending motions; (4) defendants would suffer  
19 prejudice from the delay; and (5) early discovery would require  
20 undue expense. Id. Defendants do not oppose a reasonable  
21 continuance of the July 5 hearing date to accommodate counsel's  
22 availability. Id.

23 After reviewing the parties' letters, the court GRANTS  
24 Erickson's request for leave to file a motion to conduct early  
25 discovery. The court prefers to consider defendants' numerous  
26 objections in the context of such motion. Erickson shall file his  
27 motion on or before June 21, 2007. Those defendants opposing the  
28 request shall file an opposition on or before July 6, 2007.

1 Erickson shall file a reply on or before July 13, 2007. The July  
2 5, 2007 hearing is VACATED. The parties are to confer on a new  
3 hearing date following entry of the court's order on Erickson's  
4 motion for early discovery. After conferring, the parties are to  
5 contact the deputy clerk to set up a hearing at a date convenient  
6 to their schedules.

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IT IS SO ORDERED.



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11 VAUGHN R WALKER

12 United States District Chief Judge  
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